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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,448	02/15/2002	Leo C. Cloutier	214237US-8	8750
22850	7590	05/02/2005	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			BAYARD, DJENANE M	
			ART UNIT	PAPER NUMBER
			2141	

DATE MAILED: 05/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/075,448

Applicant(s)

CLOUTIER ET AL.

Examiner

Djenane M. Bayard

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/31/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-6, 8-17, 19-35 and 37-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent application No. 6,603,758 to Schmuelling et al in view of U.S. Patent Application No. 2002/0087684 to Foth.

- a. As per claims 1, 14, 15, 28 and 29, Schmuelling et al teaches a system for supporting multiple Internet service providers on a single network. Furthermore, Schmuelling et al teaches a computer-implemented method for an end-user to select a service provider from one or more service providers providing services on a network, comprising the steps of displaying to the end-user a list of one or more service providers available to the end-user to provide services on the network (See col. 4, lines 23-26, CMI responds to the registration request by sending ISP list to client); selecting by the end-user one of the one or more service providers as a desired service provider; transmitting the end-user information to the desired service provider (See col. 4, lines 30-38, User selects an ISP from ISP list); transmitting by the desired service provider end-user

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service provisioning information to an operations support system of the network; storing an indicator in a digital repository of the operations support system based on the end-user service provisioning information indicating that the end-user has selected the desired service provider for providing a selected service; and providing service to the end-user by the desired service provider based on the indicator (See col. 4, lines 39-52, The office takes the term digital repository to be a collection of entries i.e. a database). However, Schmuelling et al fails to teach prompting the end-user for end-user information including a geographic location of the end-user; determining based on the end-user information whether the network provides service in the geographic location.

Foth teaches a method for load balancing of request for service by devices on a network and a device and a network for carrying out such method. Furthermore, Foth teaches wherein prompting the end-user for end-user information including a geographic location of the end-user; determining based on the end-user information whether the network provides service in the geographic location (See page 2 paragraph [0023] and page 3, paragraph [0026]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate prompting the end-user for end-user information including a geographic location of the end-user; determining based on the end-user information whether the network provides service in the geographic location as taught by Foth in the claimed invention of Schmuelling et al in order to provide load balance on the network (See page 1, paragraph [0006]).

b. As per claims 2, 16 and 30, Schmuelling et al in view of Foth teaches the claimed invention as described above. However, Schmuelling fails to teach declining service on the network when it is determined in the determining step that the network does not provide service in the geographic location of the end-user.

Foth teaches declining service on the network when it is determined in the determining step that the network does not provide service in the geographic location of the end-user.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate declining service on the network when it is determined in the determining step that the network does not provide service in the geographic location of the end-user as taught by Foth in the claimed invention of Schmuelling et al in order to load balance on the network (See page 1, paragraph [0006]).

c. As per claims 3, 17 and 31, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches storing a declined location indicator in the digital repository corresponding to the geographic location of the end-user; querying the digital repository for the declined location indicator; and using the declined location indicator for at least one of planning a future build-out of the network, performing a future marketing study, and performing a future sales and marketing activity (See col. 4, lines 39-52).

d. As per claim 4, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the selecting step specifying requested services through a registration application of the desired service provider, the

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transmitting the end-user information step comprises pre-populating the registration application with the end-user information through an interface with the registration application, and the transmitting by the desired service provider step comprises transmitting the end-user service provisioning information to the operations support system through an interface (See col. 4, lines 10-35).

e. As per claim 5, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein: the selecting step comprises specifying requested services through a registration application of the operations support system, and the transmitting the end-user information step comprises transmitting an indicator of the requested services to the desired service provider through an interface between the operations support system and the desired service provider (See col. 4, lines 23-52).

f. As per claims 6, 20 and 35, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches updating the indicator in the digital repository to reflect a change in the selected service through an application of an operations support system (See col. 4, lines 43-45).

g. As per claims 8, 22 and 37, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the end-user service provisioning information comprises at least a level of service to be provided to the end-user by the desired service provider (See col. 6, lines 24-33)

h. As per claims 9, 23 and 38, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the network comprises a network dedicated to broadband data transport services (See col. 2, lines 46-54).

i. As per claims 10, 24 and 39, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the network comprises a network configured to provide at least one of Internet access, digital video services, analog video services, packetized voice, voice-over-Internet Protocol, interactive video, interactive television, near video-on-demand, video-on-demand, data services, and telephony services (See col. 2, lines 60-63).

j. As per claims 11, 25 and 40, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the network comprises an open access network (See col. 2, lines 46-53).

k. As per claims 12, 26 and 41, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein at least one of the one or more service providers comprises an Internet service provider (See col. 2, lines 51-54).

l. As per claims 13, 27 and 42, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the services

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comprise at least one of Internet access, digital video services, analog video services, packetized voice, voice-over-Internet Protocol, interactive video, interactive television, near video-on-demand, video-on-demand, data services, and telephony services (See col. 2, lines 51-54).

m. AS per claims 19 and 34, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the end-user provisioning mechanism is further configured to: allow an end-user to specify requested services through a registration application of an operations support system of the network, and transmit an indicator of the requested services to the desired service provider through an interface between the operations support system and the desired service provider (See col. 4, lines 24-52)

n. As per claim 18 and 33, Schmuelling et al in view of Foth teaches the claimed invention as described above. Furthermore, Schmuelling et al teaches wherein the end-user provisioning mechanism is further configured to: transfer an end-user to a registration application of the desired service provider for specifying requested services, pre-populate the registration application with the end-user information through an interface with the registration application, and transmit the end-user service provisioning information to an operations support system of the network through an interface for storing in the digital repository (See col. 7, lines 23-67 ).

o. As per claim 32, Schmuelling et al in view of Foth teaches the claimed invention as described above. However, Schmuelling et al fails to teach, wherein the second computer code device is further configured to infer a geographic location of the end user by prompting the end



user for information corresponding to a previous account including at least one of a name, a previous account number, and a password.

Foth teaches wherein wherein the second computer code device is further configured to infer a geographic location of the end user by prompting the end user for information corresponding to a previous account including at least one of a name, a previous account number, and a password (See pag2, paragraph [0023]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the second computer code device is further configured to infer a geographic location of the end user by prompting the end user for information corresponding to a previous account including at least one of a name, a previous account number, and a password as taught by Foth in the claimed invention of Schmuelling et al in order to load balance on the network (See page 1, paragraph [0006]).

4. Claims 7, 18 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent application No. 6,603758 to Schmuelling et al in view of U.S. Patent Application No. 2002/0087684 to Foth as applied to claim 7 above, and further in view of U.S. Patent No. 6,112305 to Dancs et al.

a. As per claims 7, 18 and 36, Schmuelling et al in view of Foth teaches the claimed invention as described above. However, Schmuelling et al in view of Foth fails to teach determining whether the desired service provider has an automated provisioning application; and transferring control to a provisioning application to collect the end-user service provisioning

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information, wherein the provisioning application comprises the automated provisioning application of the desired service provider when it is determined that the desired service provider has an automated provisioning application, and the provisioning application comprises a provisioning application of the operations support system when it is determined that the desired service provider does not have an automated provisioning application.

Dancs et al teaches a mechanism for dynamically binding a network computer client device to an approved Internet service provider. Furthermore, Dancs et al teaches determining whether the desired service provider has an automated provisioning application; and transferring control to a provisioning application to collect the end-user service provisioning information, wherein the provisioning application comprises the automated provisioning application of the desired service provider when it is determined that the desired service provider has an automated provisioning application, and the provisioning application comprises a provisioning application of the operations support system when it is determined that the desired service provider does not have an automated provisioning application (See col. 6, lines 22-35).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate determining whether the desired service provider has an automated provisioning application; and transferring control to a provisioning application to collect the end-user service provisioning information, wherein the provisioning application comprises the automated provisioning application of the desired service provider when it is determined that the desired service provider has an automated provisioning application, and the provisioning application comprises a provisioning application of the operations support system when it is determined that the desired service provider does not have an automated provisioning application

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as taught by Dancs et al in the claimed invention of Schmuelling et al in view of Foth in order to allow a Network computer client device manufacturer the ability to authorize usage of its NC only to access those specific internet service providers with which it has established business relationships (See col. 1, lines 60-67).

### *Conclusion*

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,256675 to Rabinovich teaches a system and method for allocation requests for objects and managing replicas of objects on a network.

U.S. Patent Application No. 2001/0001239 to Stewart teaches a method and apparatus for geographic-based communications service.

U.S. Patent No. 6,119143 to Dias et al teaches a computer system and method for load balancing with selective control

U.S. Patent No. 6,304913 to Rune teaches an Internet system and method for selecting a closest server from a plurality of alternative servers.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Djenane Bayard

Patent Examiner

  
RUPAL DHARIA  
SUPERVISORY PATENT EXAMINER